

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA)	
)	CRIMINAL NO. 04-10192-NG
v.)	
)	
CARLOS RUBEN RIVERA)	

**GOVERNMENT'S MOTION TO REQUEST A CHANGE OF PLEA/RULE 11
HEARING DATE AND FOR AN ORDER ON EXCLUDABLE DELAY**

The government respectfully moves to Request a Change of Plea/Rule 11 Hearing Date and for an Order on Excludable Delay in the above-captioned matter.

As grounds therefor, the government states the following:

1. On January 20, 2005, a Final Status Conference was held before U.S. Magistrate Judge Charles B. Swartwood III. At that time, the Parties requested that this case be returned to the Judge Gertner for a Change of Plea and Rule 11 Hearing, which U.S. Magistrate Judge Swartwood granted. At that time, U.S. Magistrate Judge Swartwood also entered an Order excluding all time from August 19, 2004 until January 20, 2005.

2. On February 10, 2005, the undersigned assistant U.S. attorney forwarded correspondence by hand to this Court, requesting that the above-captioned matter be scheduled for a Change of Plea/Rule 11 Hearing as soon as practically possible, and advised the Court at that time that the defendant expects to plead guilty without the benefit of a written plea agreement.

3. It is the understanding of the undersigned assistant U.S. attorney that Defense Counsel, Timothy Watkins, also requested by telephone that the Court schedule a Change of Plea/Rule 11 Hearing in this case.

4. The defendant, Carlos Ruben Rivera, is presently on pre-trial release.

5. Notwithstanding the above, to date, the Court has not yet schedule a Change of Plea/Rule 11 Hearing in this case.

WHEREFORE, the government respectfully requests that the Court schedule a Change of Plea/Rule 11 Hearing Date, and, in the interests of justice, enter an Order Excluding all Time between January 21, 2005 through the date of the Change of Plea/Rule 11 Hearing.

Respectfully submitted,

MICHAEL J. SULLIVAN
United States Attorney

By:

/s/Antoinette E.M. Leoney
ANTOINETTE E.M. LEONEY
Assistant U.S. Attorney
(617) 748-3100

Date: March 28, 2005

CERTIFICATE OF SERVICE

Suffolk, ss.

Boston, Massachusetts
March 28, 2005

I, Antoinette E.M. Leoney, Assistant U.S. Attorney, certify that I caused a copy of the foregoing to be served by electronic notice and by hand to Timothy Watkins, Esq., Federal Defender's Office, the counsel of record.

/s/Antoinette E.M. Leoney
ANTOINETTE E.M. LEONEY
Assistant U.S. Attorney